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AUDITOR-CONTROLLER

**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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August 10, 2006

TO: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe *[Signature]*

FROM: J. Tyler McCauley *[Signature]*
Auditor-Controller

SUBJECT: **BEING ALIVE FOUNDATION LONG BEACH HOUSING -
RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL
SERVICES**

We have completed a fiscal review of Being Alive Foundation Long Beach Housing (Being Alive or Agency), a HIV Residential Care Facility for the Chronically Ill (RCFCI) service provider.

Background

The Department of Public Health, Office of AIDS Programs and Policy (OAPP) contracts with Being Alive Foundation Long Beach Housing (Being Alive) to provide residential care for the chronically ill. The Agency is licensed to operate a Residential Care Facility with a maximum capacity of 10 residents. Being Alive is located in the Fourth Supervisorial District.

The term of the contract is for three years, beginning on March 1, 2005 through February 29, 2008 with a contract maximum of \$721,108 for the first year, \$540,868 for the second year and \$360,628 for the third year. Under the provisions of the contract, OAPP pays Being Alive a set Fee-For-Service Reimbursement Rate for each day an individual occupies a bed. From March 1, 2005 to December 31, 2005, Being Alive received approximately \$370,400 in RCFCI funds.

Purpose/Methodology

The purpose of our review was to ensure that Being Alive appropriately spent RCFCI funds in accordance with the County contract. We also evaluated the adequacy of Being Alive's accounting records, internal controls, and compliance with the contract and applicable federal and State fiscal guidelines governing the Ryan White, Comprehensive AIDS Resource Emergency (CARE) Act.

Results of Review

Being Alive did not maintain sufficient internal controls to ensure that program assets were safeguarded and that RCFCI funds were used in accordance with program requirements. For example, the Executive Director and Chief Financial Officer (CFO) signed business checks totaling \$12,000 payable to themselves. The CFO stated the checks were for partial repayment of funds that they loaned the Agency. However, he could not provide documentation, such as copies of the loan agreements, to document the loan amounts and the dates of the loans. The Agency also has not undergone an independent audit of their financial records since 1999. The County contract requires the Agency to undergo an annual audit of their financial records.

In addition, Being Alive has difficulty meeting its financial obligations and owes approximately \$490,000 to the Internal Revenue Service (IRS) and the State Employment Development Department (EDD) for failure to pay payroll taxes prior to Fiscal Year 2004-05. The Agency also did not maintain separate accounting records for each funding source as required by the County contract.

The lack of proper controls and areas of non-compliance noted in our review are significant and indicate that Being Alive has limited capacity to comply with the County contract. We recommend DPH terminate its contract with Being Alive. In addition, since the issues noted in this report indicated that the Agency violated the terms of their County contract and committed acts which negatively reflected on the Agency's capacity to perform its County contract, we recommend DPH debar the contractor.

Subsequent to issuing our draft report, Being Alive submitted its termination notice to DPH. The details of our review, along with additional deficiencies and recommendations for corrective action, are attached.

Review of Report

In their response, Being Alive disagreed with our findings and stated the findings were based on misstatements. The Contractor also stated that they provided our office with the appropriate documentation to support their fiscal activities.

Over the past several months, we allowed Being Alive several opportunities to provide additional documentation to support their fiscal activities or correct what they believed were misstatements in our review. We also contacted the Agency by telephone a number of times requesting additional documentation to support their position. In December 2005 and March and June 2006, we met with the Agency to discuss the draft report and allow the Contractor to provide additional documentation.

Throughout the entire review process, in instances in which the Agency provided appropriate documentation that validated their fiscal activity, we adjusted our report accordingly. In instances in which we did not accept the new documentation, we explained to the Agency why the documentation was not accepted. Both the Director and the Chief Financial Officer appeared to understand our explanations.

In addition, during our June 2006 meeting, the Agency Director indicated that DPH was aware of the Agency's financial difficulties including the Agency's inability to pay the debt to the IRS.

As indicated above, the Agency submitted its termination notice to DPH. The Agency and DPH's OAPP are working together to find the appropriate setting for the patients currently housed at Being Alive.

We have attached the Agency's response cover letter and have not attached the complete response due to the number of pages contained in their response. However, copies of their entire response are available upon request. We notified DPH' OAPP of the results of our review.

We thank Being Alive for their cooperation and assistance during our review. Please call me if you have any questions, or your staff may contact Don Chadwick at (626) 293-1102.

JTM:MMO:DC

Attachment

c: David E. Janssen, Chief Administrative Officer
Jonathan E. Fielding, MD, Acting Director, DPH
John Schunhoff, Acting Chief of Operations, DPH
Mario Pérez, Interim Director OAPP, DPH
Larry Forester, President, Board of Directors, Being Alive Foundation Long Beach
Public Information Office
Audit Committee

**COUNTYWIDE CONTRACT MONITORING DIVISION
RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL PROGRAM
FISCAL YEAR 2005-2006
BEING ALIVE FOUNDATION LONG BEACH HOUSING**

FINANCIAL VIABILITY

Objective

To determine whether Being Alive Foundation Long Beach Housing (Being Alive or Agency) is financially viable and has the ability to meet its current obligations. In addition, determine whether the Agency maintained sufficient working capital to sustain the cost of the program for at least ninety (90) days.

Verification

We interviewed Being Alive's management and reviewed the Agency's financial records, cash flow, liabilities, and earnings.

Results

Being Alive has difficulty meeting its financial obligations and does not have sufficient working capital to sustain the cost of the program for 90 days, as required by the County contract. During our review, Being Alive was unable to pay their telephone bills which resulted in the telephone company disconnecting Being Alive's telephone lines for several days.

From March 2005 to August 2005, Being Alive received an average of approximately \$49,000 per month (83% from the County, 7% apartment rental income, 5% resident co-payments, and 5% nursing reimbursement) in revenue. The Agency's average expenditures during this period were \$47,000 per month. The Agency also has outstanding debt of approximately \$507,000 from prior periods with no means to repay the amount. Specifically, the outstanding debt as of August 2005 was comprised of the following:

- Approximately \$455,000 owed to the Internal Revenue Service (IRS) for delinquent federal payroll taxes. The amount is the accumulation of the amounts withheld from the employees and the employer's portion of the federal payroll taxes prior to Fiscal year 2004-05. According to the IRS, Being Alive requested to be placed on an "uncollectible status," where the IRS will not attempt to collect on the delinquent taxes for two years after which, the IRS will re-evaluate the Agency's ability to pay its tax liability.

At a subsequent meeting held on June 16, 2006, the Agency's Director stated that he signed a waiver with the IRS to assume full responsibility for Being Alive's

tax liability. However, as of July 7, 2006, he has been unable to locate the signed document or provide other documentation, such as their Board minutes, to support the existence of the waiver.

The Director also stated that the Agency sold property in 2003 to pay down the tax liability and an outstanding cost settlement liability with the County. According to documentation provided by Being Alive, the Agency received approximately \$330,000 from the property sale which was deposited in the Agency's bank account. Between March 2003 and August 2003, the Agency made several payments to the IRS totaling approximately \$78,000 and paid the County approximately \$51,000 for the cost report settlement liability. It should also be noted that for the first six months of FY 2005-06, the Agency paid the appropriate payroll taxes.

- Approximately \$35,000 owed to the State's Employment Development Department for delinquent payroll taxes for Calendar Years 2002 and 2004.
- Approximately \$5,000 owed to a nursing personnel services agency for services provided from March to June 2002.
- Approximately \$7,000 owed to the Long Beach Lesbian and Gay Pride, Inc., (LBLGP) for construction work on apartments which the Agency leases from LBLGP and used for another program unrelated to Residential Care Facility for the Chronically Ill (RCFCI) patients. This liability was not shown in the Agency's accounting records.

Being Alive uses current period funds to pay down some of the prior period liabilities. However, this practice is not allowed. The issue is further discussed in the Expenditure Section of this report.

The areas of non-compliance noted above, and in the remaining sections of the report, are significant and indicate that Being Alive has limited capacity to comply with the DPH contract. We recommend DPH terminate its contract with Being Alive and debar the contractor.

Recommendation

1. **DPH management terminate the contract with Being Alive and debar the contractor.**

CASH

Objective

Determine whether cash receipts are properly recorded in the Agency's records and deposits are made timely to their bank account. In addition, determine whether bank

reconciliations are properly prepared and open reconciling items are valid and cleared in a timely manner.

Verification

We reviewed copies of the bank reconciliations prepared by the Agency for July 2005 and August 2005. We also reviewed the bank statements for March to August 2005. In addition, we reviewed the Agency's cash and banking procedures.

Results

Generally, Being Alive reconciled the RCFCI program bank account on a monthly basis. In addition, the open reconciling items appear valid and are cleared in a timely manner. However, Being Alive's controls over cash and other liquid asset are seriously deficient and are discussed further in the Internal Control Section of this report.

Recommendation

There are no recommendations for this section.

REVENUE

Objective

Determine whether revenues are properly recorded and reimbursement claims are accurately prepared and calculated. In addition, determine whether fees collected from clients for services provided and third party payments (i.e., private insurance, Medi-Cal or Medicare) are deducted from monthly reimbursement claims.

Verification

We reviewed Being Alive's financial records and reimbursement claims sent to the DPH' Office of AIDS Programs and Policy (OAPP) for July and August 2005. We also traced and agreed the amount of days the Agency billed DPH for six residents during July and August 2005 to the documentation used by the Agency to track resident attendance levels.

Results

The Agency properly deposited the revenue they received from DPH in the appropriate bank account. In addition, the reimbursement claims prepared by the Agency for July and August 2005 were accurately prepared. The Agency used the correct rates and the patient days reported on the claims agreed with the attendance documentation maintained by the Agency. For the July and August 2005 claims, the Agency did not collect fees from other sources that needed to be reported on the claims.

Recommendation

There are no recommendations for this section.

EXPENDITURES**Objective**

Determine whether the expenditures are appropriate and allowable under regulations governing the contract, and are properly documented.

Verification

We reviewed the supporting documentation for a sample of transactions that occurred between March and August 2005 that were reported in the Agency's financial records and bank statements. The expenditures sampled totaled approximately \$63,200.

Results

Being Alive management stated that they do not maintain separate accounting records for each funding source as required. At the end of the year Being Alive management reviews each of the expenditure transactions that occurred during the year to identify the appropriate program to charge. For the OAPP program, Being Alive prepares a cost report that compares the program revenues with the program expenditures. According to the program requirements, the program revenues can not exceed the program expenditures. As previously noted, Being Alive received approximately 83% of their funding from the County.

The Agency may have diverted County funds to pay for non-program related expenditures. Approximately 30% of the expenditures sampled related to non-program expenses. Other expenditures were not documented or allowable. Specifically:

- The Agency spent \$4,950 for a consultant that performed work on another program.
- In May 2005, the Agency authorized a \$4,183 bank debit from the Housing bank account. The Agency indicated that the funds were used to purchase a cashier's check issued to the Employment Development Department for payroll taxes. However, the Agency lacked sufficient documentation to show that the payment relates to the current contract period.
- The Agency spent \$1,000 for a SB 945 Advocacy activity which is not an allowable program expense.
- Between March 2005 and August 2005, the Agency spent \$6,000 to pay down a \$10,000 long term liability incurred in a prior contract period which is not an allowable program expense.

- In March 2005, Being Alive spent \$1,000 that they indicated was for repayment of a loan that a member of the Board of Directors made to the Agency during the prior contract period.
- Between March and August 2005, Being Alive spent \$1,160 to pay overdraft charges and Non-sufficient Fund fees (NSF) related to the RCFCI bank account.

Being Alive also paid the CFO \$23,550 more than the average salary earned by Controllers working for organizations of similar size. According to Being Alive's financial records, the CFO earned \$37,800 from the Agency for working an average of 20 hours per week for six months. According to a salary study conducted by the Child Welfare League of America, the average salary paid to Controllers in 2003 employed full time by non-profit agencies with gross revenues of \$1 million to \$1½ million, was \$57,000. However, taking into consideration the CFO worked only part time, the comparable pay is \$14,250 for six months. The Agency should provide DPH with written justification for the need to pay the CFO \$23,550 (\$37,800 - \$14,250) more than the industry average. If the Agency can not justify the increase, Being Alive needs to repay DPH \$23,550.

In addition, the Agency made a number of payments to the Executive Director, the CFO, and a member of the Board of Directors during our audit period. The payments made to the individuals totaled approximately \$12,000. The Executive Director and CFO stated the payments were repayments of funds that they had loaned the Agency. They provided copies of their cancelled checks from their personal checking accounts showing alleged loan payments made to the Agency. However, the Agency could not provide documentation, such as copies of loan agreements between the individuals and the Agency, to document the loans.

Recommendations

2. **When the Agency completes their Fiscal Year 2005-06 Cost Report, DPH review the report to ensure the Agency was not reimbursed the \$18,293 and collect any overpayments.**

Being Alive management:

3. **Use RCFCI funds only for expenditures relating to service delivery.**
4. **Maintain documentation to support program expenditures, including loans to Agency management and Board of Directors.**
5. **Provide DPH with written justification for the amount paid to the CFO. If the Agency cannot provide justification to support paying the CFO the \$23,550 beyond the industry average, the Agency should repay DPH the \$23,550.**

6. **Maintain separate accounts of assets, liabilities, expenditures and revenues for each funded program.**

INTERNAL CONTROLS

Objective

To determine whether the contractor maintained sufficient internal controls over its business operations.

Verification

We interviewed Agency personnel, reviewed their policies and procedures manuals, and tested transactions in various areas such as cash, expenditures, payroll, personnel and financial reporting.

Results

Overall, Being Alive did not maintain sufficient internal controls over its business operations to ensure that program assets were safeguarded and that RCFCI funds were used in accordance with the program requirements. Specifically:

Cash

- The Agency commingled County funds with funds the Agency received from other sources and with the personal funds of the Executive Director and the Chief Financial Officer (CFO). During our entrance conference, the Agency indicated that only one bank account was used to deposit RCFCI revenue and to pay program expenditures. However, the bank statements for the account listed several transfers of RCFCI revenue from the account to two other bank accounts. One bank account related to the Agency's Long Beach operations, and one bank account related to the Agency's Foundation.

The CFO stated RCFCI funds are transferred from the RCFCI account to the other accounts in order to maintain a low cash balance in the account to discourage the IRS from garnishing funds from the account. The CFO also stated that prior to paying RCFCI related expenses, funds which had previously been transferred from the RCFCI account are transferred back to the RCFCI account. As of the September 2005, RCFCI funds totaling \$5,688 are still commingled in the non-program related bank accounts.

At a subsequent meeting held on June 16, 2006, the Agency's Director stated that the CFO's explanation for the transfers was incorrect and that the transfers were needed as a result of the Agency's cash flow problems. However, the monthly volume and pattern of the transfers between the various bank accounts supports the CFO's statement.

- A second signature is not required on checks. The DPH handbook requires two signatures on all checks. The second signer should be someone independent from the cash receipts and disbursements processes.
- The Executive Director and CFO prepared and signed checks made payable to themselves. To ensure all disbursements are appropriate and authorized, Being Alive's Board of Directors should designate an alternate check signer to sign checks made payable to the Executive Director and CFO.
- The CFO prepared and signed checks, has control over deposits and bank reconciliations. The bank reconciliations did not show that they were reviewed and approved by the Executive Director or a Board Member.
- Being Alive did not account for all voided checks. Twenty-five voided checks were not recorded in the check register. In addition, the Agency could not locate 16 of the 25 voided checks.

Cash – Other

In addition to providing program services, the Agency operates an apartment complex for clients. This includes maintenance of the facility and collecting rent from the complex's residents. The revenue collected from the rent and the expenses related to the apartment complex are separate from the RCFCI program.

The Chief Financial Officer stated that some clients pay their rent using cash. According to the Chief Financial Officer, on at least one occasion, he paid himself \$2,544 in cash from the rent proceeds claiming the payment was for a repayment of a loan.

Expenditures

- Being Alive did not mark all invoices or receipts "paid" upon payment to prevent duplicate payments. Thirteen (72%) of 18 invoices or receipts reviewed were not marked "paid".

Payroll

- Two of five employee timesheets sampled were not signed by the employee and their supervisor. Timesheets should be signed by the employee and approved in writing by supervisory personnel to certify the accuracy of the reported time.

Financial Reporting

- The financial statements have not been audited since 1999. The DPH Handbook, Circular A-133 and Contract Section, Additional Provisions, Paragraph 12.E. require the Agency to undergo an annual financial audit. It

should be noted that OAPP have made capacity building funds available to Being Alive to obtain the audits but they have not pursued this opportunity.

Recommendations

Being Alive management:

- 7. Discontinue the practice of commingling RCFCI funds with funds in other bank accounts.**
- 8. Repay the RCFCI housing bank account \$5,688.**
- 9. Require two signatures on all checks signers and ensure that the second signer is someone independent from the cash receipts and disbursements processes.**
- 10. Ensure an adequate separation of duties over the handling of cash, such as preparing and signing checks, deposits and bank reconciliations.**
- 11. Ensure that bank reconciliations are reviewed and approved by the Executive Director or a Board Member.**
- 12. Ensure that all voided checks are accounted for and recorded on the check register.**
- 13. Require that invoices or receipts are marked "cancelled" to prevent duplicate payments.**
- 14. Hire an accounting firm to conduct a financial audit of the Agency for the unaudited Fiscal Years.**
- 15. Ensure that all financial transactions are recorded in the Agency's accounting records.**
- 16. Ensure timesheets are signed by the employee and approved in writing by supervisory personnel.**

PAYROLL AND PERSONNEL

Objective

Determine whether payroll is appropriately charged to the RCFCI program. In addition, determine whether personnel files are maintained as required.

Verification

We traced and agreed payroll expenses deducted from the RCFCI account between March and August 2005 to the employee time reports. The payroll expenses totaled approximately \$33,500. We also interviewed staff and reviewed five personnel files of staff assigned to the RCFCI program.

Results

Being Alive used RCFCI revenue for payroll related expenses of staff that did not work on the program. In addition, they used RCFCI revenue to pay staff for vacation and sick leave that the staff had not earned. The amount of non-program related costs totaled \$19,872. Specifically:

- The Agency charged the RCFCI program approximately \$18,000 in salary expenditures for two employees that did not work on the RCFCI program. Agency management stated that the employees worked on the REACH program.
- The Agency charged the RCFCI program \$315 for an employee's share of life insurance and short-term disability premiums. The employee did not work on the RCFCI program. In addition, the Agency charged the RCFCI program \$521 for the CFO's medical and dental insurance premiums.
- The Agency charged the RCFCI program \$1,036 for vacation and sick leave paid to two employees that had not accrued/earned the benefit time.

In addition, three of the five personnel files reviewed did not contain documentation to support the salaries earned by the three individuals. The contract requires Being Alive to have supporting documentation for all program expenditures including employee salary rates.

Recommendations

17. DPH management resolve the \$19,872 in non-program related costs and collect any overpayments.

Being Alive management:

18. Ensure that employee salaries and benefits are paid with funds from the program the employee works on.
19. Ensure that personnel files contain authorized salary rates.
20. Ensure that benefit balances are earned/accrued prior to compensation.

COST ALLOCATION PLAN**Objective**

Determine whether Being Alive's cost allocation plan is appropriate and that the Agency used the plan to allocate shared costs.

Verification

We reviewed Being Alive's cost allocation plan and the Agency's accounting records that reported financial activity from March to August 2005.

Results

The cost allocation plan developed by Being Alive is appropriate. However, Being Alive did not use the plan to allocate shared costs on a monthly basis. The Agency's financial records reported that the RCFCI program was charged 100% of the Agency's rent and utility expense despite that an additional program received benefit from these expenditures. Agency management indicated that costs (and revenue) are allocated to the appropriate programs at the end of the contract period.

By not allocating costs on a monthly basis, the Agency can not effectively manage the financial/business activity of each program. In addition, as noted above, the County contract requires the Agency to maintain separate accounting records for each funding source and requires that all monthly claims be supported by actual costs.

Recommendation

21. **Being Alive management allocate expenditures on a monthly basis in accordance with its cost allocation plan.**



April 20, 2006

Ms. Maria McGloin
County of Los Angeles
Department of the Auditor Controller
1000 South Fremont Avenue
Building A-9 East, 1st Floor
Alhambra, CA 91803

RE: Response to County Draft Audit Report, Being Alive Housing

Dear Ms. McGloin,

This correspondence is intended to serve as our response to the draft audit report you supplied to us. This is our third response to the audit report.

We do not agree with most of the findings and object to the document's tone and conclusions.

We were audited on an open contract period. We are compensated on a fee for service basis, not a cost reimbursement basis. We had not, at the time of the audit, produced the normal annual cost report reconciliation. Thus, any contention that we used county funds inappropriately is erroneous in that we had not charged the county for the costs listed in the report. At the time of the audit we produced a preliminary cost report which **did not** reflect the costs that were objectionable to the County because we would not have and have not charged them to the County.

We agree with and are addressing the internal control issues outlined in the report. However, even in this section there are misstatements related to our current practices which were pointed out to you initially, and in meetings subsequently, but have not been changed in the report. In fact, new inflammatory information was added from the first draft to the second draft.

The cover letter and document does not reflect our conversations and/or meetings and is not responsive to the points and evidence that we provided. We believe very strongly that this report subjectively tells a tale that does not reflect the true nature of the service that we have provided to the County of Los Angeles.

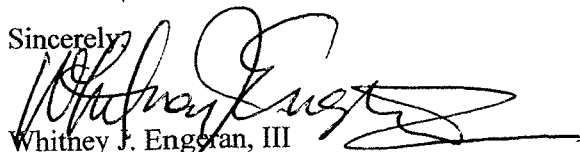
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Our responses are included with this document. We request information on any and all internal appeals procedures that are available to us.

We value our relationship with the County of Los Angeles and, as our program audits document, provide a high level of service to our residents.

We sincerely hope that we are able to address the audit concerns and clear up any miscommunications or misperceptions that have led to this point.

Sincerely,



Whitney J. Enggran, III
Executive Director
Being Alive Housing

C: Supervisor Don Knabe
Wendy Watanabe, Assistant Auditor Controller
John Schunhoff, Chief of Operations, DHS
Mario Perez, Acting Director, Office of AIDS Programs and Policy, DHS
BAH Board of Directors
Matthew Fairshter, Esq.

Attachments

January 10th Response
2nd Response to 2nd Draft